

REMARKS

Claim 9 has been canceled without prejudice. Claim 6 has been amended. Claims 6, 8, 10 and 11 are still pending in the present application. Reexamination and allowance of the pending claims are respectfully requested.

Claim 6 stands rejected under 35 USC 112, second paragraph, because the Examiner finds that the phrase "an item of furniture positioned in the space" to be indefinite. In particular, the examiner believes that this phrase is indefinite because claim 6 appears to be reciting a panel assembly. However, this assumption is incorrect because claim 6 recites an assembly that includes a plurality of panels and the item of furniture. Thus, Applicant respectfully submits that claim 6 meets the requirements of 35 USC 112.

Independent claim 6 stands rejected under 35 USC 103(a) as being unpatentable over USP 6,782,905 to Chu et al. ("Chu") in view of USP 6,446,396 to Marangoni et al. ("Marangoni"). This rejection is respectfully traversed.

Claim 6 has been amended to recite that the space defined by the ring of panels is uninterrupted.

In contrast, all of the embodiments in Chu include a bottom panel (e.g., 26, 51, 87). Thus, the space defined by the ring of panels in Chu is not uninterrupted. Therefore, even a combination of Chu and Marangoni would not yield all the limitations of claim 6.

Applicant also submits that it would not be proper to combine Chu and Marangoni. Chu's disclosure of a bottom panel makes it impractical to position items of furniture on top of the bottom panel in the context of the claimed invention. Specifically, claim 6 recites two sets of two panels, with each set of panels having two panels hingedly connected to each other, and with the two sets of panels being removably connected to each other. This arrangement of the panels is designed to allow the two sets of panels to be placed around, and to surround, the item of furniture without the need to move the item of furniture. This is an important feature given the fact that some items of furniture are very heavy. For this reason, a person skilled in the collapsible structures art will have no reason to consider combining the teachings of Chu and Marangoni.

In a very recent case, DyStar Textilfarben GmbH v. C.H. Patrick Co., 80 USPQ2d 1641 (Fed. Cir. 2006), the Federal Circuit clarified the relevant principles for determining obviousness. Among the many principles clarified in that decision, the Federal Circuit stated that although common knowledge and common sense of a person of ordinary skill in the art can be used to reach a conclusion of obviousness without the need for any

specific teaching or suggestion from a prior art reference, conclusory statements alone are not enough to satisfy the examiner's obligation to explain all material facts relating to a motivation to combine. In other words, the rejection must be supported by evidence (which can be an explanation) as to why the person skilled in the art would reach the conclusion of obviousness. See Dystar, 80 USPQ2d at 1648-1650.

When these legal principles are applied to the present rejection, then the purported combination of Chu and Marangoni fails. On page 3 of the office action, the examiner asserts that it "would have been obvious to one of ordinary skill in the art at the time of the invention to modify the device of Chu by using the ring of panels to conceal a piece of furniture as taught by Marangoni in order to enhance the aesthetic please [sic] of the area near the item of furniture". This sentence purportedly forms the basis or explanation as to why an ordinary person skilled in the art would reach the conclusion of obviousness. However, this sentence is merely a conclusory statement that is based on hindsight reconstruction (i.e., formulated based on the present invention's stated objective of using collapsible panels to conceal furniture), and does not satisfy the examiner's obligation to explain all material facts relating to a motivation to combine, because of the following reasons:

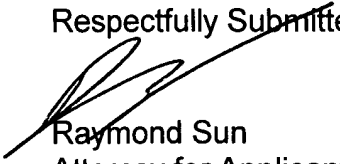
1. This statement does not accurately characterize the objectives in Marangoni. Specifically, Marangoni discloses a wall system that is used for partitioning interior space in a building. See the abstract and columns 1 and 2 of Marangoni. There is no teaching or suggestion in Marangoni about concealing a piece of furniture.
2. There is no teaching or suggestion in Chu that its panels can be used to surround or conceal an item of furniture.
3. Common sense or common knowledge would be negated by: (i) the fact that the bottom panel in Chu makes it impractical to position items of furniture on top of the bottom panel in the context of the claimed invention, (ii) the fact that Marangoni's panels are not collapsible, and (iii) the fact that there has been no other express disclosure anywhere about the use of collapsible panels to surround a piece of furniture (i.e., if it were common knowledge, then why has there been no other express disclosure anywhere else to use collapsible panels to surround a piece of furniture). To further highlight the distinctions (ii) and (iii), Applicant has added the limitations of claim 9 into independent claim 6.



Thus, claim 6, and claims 8, 10 and 11 depending therefrom, are submitted to be allowable over Chu and Marangoni.

In light of the above, allowance of all pending claims is respectfully requested. The Examiner is invited to telephone the undersigned if there are any informal matters that can be resolved in a phone conversation, or if the Examiner has any suggestions or ideas that would further advance the prosecution of this case.

Respectfully Submitted,


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CERTIFICATE OF MAILING

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By: 
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